

AMENDED IN SENATE JULY 23, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1351**

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**Introduced by Assembly Member Blakeslee**

February 27, 2009

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An act to amend Section 399.12.5 of the Public Utilities Code, relating to energy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1351, as amended, Blakeslee. Renewable energy resources.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year.

Under existing law, the incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility is electricity from an eligible

renewable resource for purposes of the California Renewables Portfolio Standard Program if certain requirements are met. One of these requirements is that the hydroelectric generation facility has been certified by the State Water Resources Control Board pursuant to the federal Clean Water Act or by a regional board to which the board has delegated authority.

~~This bill would delete the requirement that a hydroelectric generation facility be certified by the board pursuant to the federal Clean Water Act and would instead allow a facility to meet the certification requirement if it is certified by any state board or agency pursuant to the federal Clean Water Act, for a hydroelectric generation facility that is not located in California, authorize the applicable state board, agency, or regional board having that authority, to issue the certification pursuant to the federal Clean Water Act.~~ The bill would add a requirement that the facility be owned by a retail seller or local publicly owned electric utility.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 399.12.5 of the Public Utilities Code is
- 2 amended to read:
- 3 399.12.5. (a) Notwithstanding subdivision (c) of Section
- 4 399.12, a small hydroelectric generation facility that satisfies the
- 5 criteria for an eligible renewable energy resource pursuant to
- 6 Section 399.12 shall not lose its eligibility if efficiency
- 7 improvements undertaken after January 1, 2008, cause the
- 8 generating capacity of the facility to exceed 30 megawatts, and
- 9 the efficiency improvements do not result in an adverse impact on
- 10 instream beneficial uses or cause a change in the volume or timing
- 11 of streamflow. The entire generating capacity of the facility shall
- 12 be eligible.
- 13 (b) Notwithstanding subdivision (c) of Section 399.12, the
- 14 incremental increase in the amount of electricity generated from
- 15 a hydroelectric generation facility as a result of efficiency
- 16 improvements at the facility, is electricity from an eligible
- 17 renewable energy resource, without regard to the electrical output
- 18 of the facility, if all of the following conditions are met:

1 (1) The incremental increase is the result of efficiency  
2 improvements from a retrofit that do not result in an adverse impact  
3 on instream beneficial uses or cause a change in the volume or  
4 timing of streamflow.

5 (2) (A) The hydroelectric generation facility has, within the  
6 immediately preceding 15 years, received certification from ~~a state~~  
7 ~~board or agency~~ *the State Water Resources Control Board* pursuant  
8 to Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341), or  
9 has received certification from a regional board to which the state  
10 board has delegated authority to issue certification, unless the  
11 facility is not subject to certification because there is no potential  
12 for discharge into waters of the United States.

13 (B) *If the hydroelectric facility is not located in California, the*  
14 *certification pursuant to Section 401 of the federal Clean Water*  
15 *Act (33 U.S.C. Sec. 1341) may be received from the applicable*  
16 *state board or agency or from a regional board to which the state*  
17 *board has delegated authority to issue the certification.*

18 (3) The hydroelectric generation facility is owned by a retail  
19 seller or a local publicly owned electric utility, was operational  
20 prior to January 1, 2007, the efficiency improvements are initiated  
21 on or after January 1, 2008, the efficiency improvements are not  
22 the result of routine maintenance activities, as determined by the  
23 Energy Commission, and the efficiency improvements were not  
24 included in any resource plan sponsored by the facility owner prior  
25 to January 1, 2008.

26 (4) All of the incremental increase in electricity resulting from  
27 the efficiency improvements are demonstrated to result from a  
28 long-term financial commitment by the retail seller or local publicly  
29 owned electric utility. For purposes of this paragraph, “long-term  
30 financial commitment” means either new ownership investment  
31 in the facility by the retail seller or local publicly owned electric  
32 utility or a new or renewed contract with a term of 10 or more  
33 years, which includes procurement of the incremental generation.

34 (c) The incremental increase in the amount of electricity  
35 generated from a hydroelectric generation facility as a result of  
36 efficiency improvements at the facility are not eligible for  
37 supplemental energy payments pursuant to the Renewable Energy  
38 Resources Program (Chapter 8.6 (commencing with Section 25740))

1 of Division 15 of the Public Resources Code), or a successor  
2 program.

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